

R

330

DEPARTMENT OF STATE A/CDC/MR

REVIEWED BY [Signature] DATE 9-30-56

RDS ☐ OF XDS ☐ EXT. DATE 12-1-56

REASON 1

REASON 2

REASON 3

REASON 4

REASON 5

REASON 6

REASON 7

REASON 8

REASON 9

REASON 10

REASON 11

REASON 12

REASON 13

REASON 14

REASON 15

REASON 16

REASON 17

REASON 18

REASON 19

REASON 20

REASON 21

REASON 22

REASON 23

REASON 24

REASON 25

REASON 26

REASON 27

REASON 28

REASON 29

REASON 30

REASON 31

REASON 32

REASON 33

REASON 34

REASON 35

REASON 36

REASON 37

REASON 38

REASON 39

REASON 40

REASON 41

REASON 42

REASON 43

REASON 44

REASON 45

REASON 46

REASON 47

REASON 48

REASON 49

REASON 50

REASON 51

REASON 52

REASON 53

REASON 54

REASON 55

REASON 56

REASON 57

REASON 58

REASON 59

REASON 60

REASON 61

REASON 62

REASON 63

REASON 64

REASON 65

REASON 66

REASON 67

REASON 68

REASON 69

REASON 70

REASON 71

REASON 72

REASON 73

REASON 74

REASON 75

REASON 76

REASON 77

REASON 78

REASON 79

REASON 80

REASON 81

REASON 82

REASON 83

REASON 84

REASON 85

REASON 86

REASON 87

REASON 88

REASON 89

REASON 90

REASON 91

REASON 92

REASON 93

REASON 94

REASON 95

REASON 96

REASON 97

REASON 98

REASON 99

REASON 100

In reply refer
to L/E

November 26 1956

Dear Mr. Doub:

I refer to your letter of October 31, 1956 regarding State legislation discriminating against Japanese textiles in violation of the 1953 Treaty of Friendship, Commerce and Navigation between Japan and the United States. You inquire whether the Department still desires that this legislation be challenged by litigation, after considering the summary of FBI reports of its investigation of the matter, a copy of which you enclosed with your letter.

The Department still desires that the legislation be challenged by litigation. The existence of such legislation affects adversely the relations of the United States with Japan, which has protested officially the violation of treaty involved, and in other ways has demonstrated its serious concern over the continued existence of such legislation. The reply of the Japanese Government to an inquiry regarding Japanese intentions with respect to future levels of exportation of cotton textiles to the United States, a copy of which is enclosed, is the most recent indication of such concern. Even though the effectiveness of the legislation at any given time is less than complete -- we do not read the FBI report as indicating that it is having no effect -- its continued existence serves as a continuing obstacle to the successful conduct of the foreign relations of the United States by continually stigmatizing us as a treaty violator.

Accordingly, the Department renounces the request made in the Acting Secretary's letter of July 3, 1956, that an action be commenced for a judgment that the legislation is invalid.

Sincerely yours,

Herman Phleger
The Legal Advisor

Enclosure:

Press Release No. 509
September 27, 1956.

The Honorable
George Cochran Doub,
Assistant Attorney General,
Civil Division,
Department of Justice.

L:L/E:SDMetzger/blm 11/13/56

S/S-CR

NOV 14 1956 A.M.

NOV 26 1956 A.M. NOV 15 1956

FE: HPT - WY
E - Mr. Kalijarvi
FE - Mr. Robertson
IRD - Mr. Nichols
NA - Mr. Parsons
G - Mr. Murphy

611.944/10-3155

611.944/10-3156

DC/R
Anal 2

CV
Cht 5

OFFICIAL USE ONLY

(Security Classification)

DO NOT TYPE IN THIS SPACE

PRIORITY

FOREIGN SERVICE DESPATCH

FROM : AMEMBASSY, TOKYO

880

DESP. NO.

TO : THE DEPARTMENT OF STATE, WASHINGTON.

February 25, 1957

REF :

13 For Dept. Use Only	ACTION E-4	DEPT. I N F O	REP.2 RMIR-2 OLI-8 FE-4 L-2
	REC'D 2-28	OTHER COM-10 TR-3 CIA-12	

SUBJECT: Inquiry Regarding Intent and Force of Sections 3 and 5 of Article XI of the Treaty of Friendship, Commerce and Navigation with Japan

The Embassy has received an inquiry regarding the above referenced sections of the Treaty.

Article VI section (1) of the convention between the United States and the United Kingdom for the avoidance of double taxation stipulates that "the rate of United States tax on dividends derived from the United States corporation by resident of the United Kingdom who is subject to the United Kingdom tax on such dividends and not engaged in trade or business in the United States shall not exceed 15 per cent:..."

The Tokyo attorney who made the inquiry has a client who was formerly a resident of the United Kingdom and enjoyed the benefits of the above cited Article. Now this person is residing in Japan, and presumably would no longer be considered to be a resident of the United Kingdom within the meaning of that term in the above cited Article. His dividends received from U. S. corporations would be subject to withholding at a rate of 30 per cent. Having previously enjoyed the 15 per cent rate, the taxpayer has raised the question through his attorney whether residents of Japan are not entitled to treatment equal to that accorded residents of the United Kingdom by virtue of section 3 of Article XI of the Treaty of Friendship, Commerce and Navigation. This section appears to accord most favored nation treatment to nationals and companies of either party. The individual in question is a British, and not a Japanese national, and though resident in Japan retains his British domicile. On the other hand, it is recognized that section 5 seems to stipulate certain special treatment for tax advantages on the basis of reciprocity. The question therefore is whether or not the most favored nation treatment provided for under section 3 of Article XI is applicable to tax matters by virtue of the reservation contained in section 5.

In order to reply authoritatively to the inquiry which it has received, the Embassy would appreciate advice from the Department as to the appropriate interpretation of the cited sections of the Treaty of Friendship, Commerce and

AFBlaserJr/jt

REPORTER

OFFICIAL USE ONLY

ACTION COPY -- DEPARTMENT OF STATE

The action office must return this permanent record copy to DC/R files with an endorsement of action taken.

This Document Must Be Returned to 611.944/2-2557

HBS

MESSAGE CENTER
CONTROL
FILED
FEB 26 1957Re: Inquiry
4/3-8
3/12/57 file

Page 2 of
Desp. No. 880
From EMBASSY, TOKYO

OFFICIAL USE ONLY

(Classification)

Page 2 of
Encl. No. _____
Desp. No. _____
From _____

Navigation as they apply to the facts outlined above. It would be appreciated if the reply would also cover the case of a Japanese national even though the present inquiry is on behalf of a resident of Japan who is not a Japanese national, if this difference is material in this situation.

For the Ambassador:

Arthur F. Blaser Jr.

Arthur F. Blaser, Jr.
Financial Attache

OFFICIAL USE ONLY